



Department of Energy
Strategic Petroleum Reserve Project Management Office
900 Commerce East
New Orleans, Louisiana 70123

January 2, 2009

Dear Prospective Offeror:

ROYALTY-IN-KIND PHASE IVd REQUEST FOR OFFERS DE-RP93011 FOR EXCHANGE OF ROYALTY OIL

The Department of Energy (DOE) is soliciting offers for the exchange of Royalty Oil produced from Federal offshore leases in the Gulf of Mexico for exchange oil to be delivered to the Strategic Petroleum Reserve (SPR). The delivery period of the Royalty Oil to be exchanged or delivered directly into the SPR will be for a projected nine month period, with the initial delivery commencing April 2009. Ratable deliveries of exchange oil to the DOE will commence on or after May 1, 2009 and must be completed not later than January 31, 2010. The Contractor will be required to take the full amount of Royalty Oil delivered to the market center(s) over the contracted delivery period at the Market Center(s) specified in Exhibit A of this Request for Offers (RFO). The exchange oil provided to the DOE must meet DOE crude oil specifications as specified in Exhibit F.

Under this solicitation the DOE will consider offers for the exchange of up to approximately 6,900,000 million barrels of Royalty Oil. The closing date for receipt of offers is January 14, 2009, at 1100 hours (11:00 a.m.) local New Orleans, Louisiana time. Only timely facsimile offers will be accepted at (504) 818-5760 (see Paragraph B.4). Please refer to the enclosed instructions for submitting offers under this solicitation. Offerors are also requested to provide their Internet address.

The format for this solicitation is "negotiated", which allows the DOE to discuss issues regarding price, quantity, or any other provision of this solicitation. However, the DOE may award a contract without discussions with Offerors. Therefore, each initial offer should contain the Offeror's terms most advantageous to the DOE.

In order to encourage U.S.-flag offers, enclosed for your information is a listing of companies which own and/or operate US flagged tankers.

This solicitation does not commit the DOE to award contracts for exchange of Royalty Oil. Offer preparation costs as a result of this solicitation will not be borne by the DOE.

Thank you for your interest in the Strategic Petroleum Reserve. Questions or comments concerning this solicitation must be submitted to E-mail address Joyce.Francois@spr.doe.gov no later than close of business on January 8, 2009. I am signing this in the absence of the Contracting Officer, Joyce B. Francois.

Sincerely,

A handwritten signature in black ink, appearing to read "M.G. Waggoner".

M.G. Waggoner
Contracting Officer

Enclosure

Enclosure

U. S. Independent Companies

AHL Shipping Company 219 E. Houston Street, Suite 300 San Antonio, TX 78205 POC: Mr. Richard Horner/Jere White Tel: (210) 524-7727 jwhite@ahlsc	Crowley Marine Services 9487 Regency Square Boulevard Jacksonville, FL 32225 POC: Mr. Steve Collar
Keystone Shipping Co. One Bala Plaza East, Suite 600 Bala Cynwyd, PA 19004-1496 POC: Mr. Don Kurz	OSG America, Inc. 302 Knights Run Ave., Suite 1200 Tampa, FL 33602 POC: Mr. Eric Smith
Maersk Line Ltd. One Commercial Place 20th Floor Norfolk, VA 23510-2103 POC: Mr. Steve Carmel also Washington D.C. Office Arlington, VA Office: (703) 351-0404 Cell: (703) 615-5618 Fax: (703) 351-0130 POC: Kevin Speers/Megan Patrick	Seabulk Tankers, Inc. 2200 Eller Dr. P.O. Box 13138 Fort Lauderdale, FL 33316 POC: Mr. Steve Willrich United States Shipping LLC 399 Thornall Street, 8th Floor Edison, NJ 08837 POC: Mr. Joseph P. Gehegan Jr.

Source: Maritime Administration, February 2007



U.S. DEPARTMENT OF ENERGY
STRATEGIC PETROLEUM RESERVE
PROJECT MANAGEMENT OFFICE
NEW ORLEANS, LA

ROYALTY-IN-KIND

PHASE IVd

REQUEST FOR OFFERS

FOR EXCHANGE OF

ROYALTY OIL

DE-RP93011

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SECTION A - SOLICITATION**A.1 Introduction**

- a. The Department of Energy (DOE), Strategic Petroleum Reserve Project Management Office (SPRPMO) is soliciting written offers for the exchange of up to approximately 6.9 million barrels (MMB) of Royalty Oil produced from Federal offshore leases in the Gulf of Mexico for exchange oil to be delivered to the DOE. Offers will be accepted on a competitive basis. The closing date for receipt of offers is January 14, 2009, at 1100 hours (11:00 a.m.) local New Orleans, Louisiana time. Offerors have the flexibility in structuring the offer to provide the DOE with domestic and/or foreign crude oil.
- b. The Royalty Oil information, including oil types and quantities from the Market Center, is described in Exhibit A. DOE reserves the right to adjust royalty oil quantities so as to not exceed SPR target storage volumes.
- c. The exchange oil delivered to the DOE shall meet the specifications in Exhibit F. Acceptance of any exchange oil offered for delivery will be subject to the Contracting Officer's approval. Gravity and sulfur differentials will be used to determine quality adjustments for any exchange oil delivered which varies from the quality specifications of the exchange oil contracted.
- d. The minimum offer quantity of Royalty Oil to be exchanged over the contract period is two million barrels.
- e. Final reconciliation of contract amounts at the end of the contract period may require monetary reimbursement due to insignificant quantities.
- f. Royalty Oil deliveries to the Contractor will commence April 2009. The Royalty Oil delivery period for up to approximately 6.9 MMB will be for a term of a nine month period ending December 31, 2009. The Contractor's ratable exchange oil deliveries to the DOE shall commence no earlier than May 1, 2009, and shall be completed no later than January 31, 2010.
- g. Notwithstanding the language in Section E entitled "Force Majeure" and G.5 entitled "Excusable Delay" the DOE does not warrant the quantities or qualities of the streams at the Market Centers described in Exhibit A or any subsequent monthly estimates nor will the Government make up any Royalty volume lost as a result of production, transportation, interruption or for any reason.
- h. The offeror shall provide with its offer the most recent comprehensive crude oil assay for any crude oil offered under this solicitation, which is not identified in the footnotes in Exhibit F.

A.2 Description

Delivery of the exchange oil to the Government can be made to one DOE site (Bryan Mound). See Section J, Exhibits C and I.

The Bryan Mound site is connected via a 30-inch pipeline from Seaway's Freeport Terminal, Freeport, Texas; and a 30-inch pipeline from Jones Creek Tank Farm.

A.3 Definitions

As used throughout this solicitation, the following terms shall have the meaning set forth below:

- a. "Royalty Oil" means that portion of crude oil to which the Government is entitled as the royalty percentage of the production from Federal leases and which is made available to the DOE at the Market Center(s).
- b. "Exchange oil" means that crude oil (domestic or foreign) which is being provided to the U.S. DOE SPR in exchange for the Royalty Oil received from the Government. Note: Royalty Oil which meets SPR specifications may be provided directly to the SPR as exchange oil.
- c. "Government", unless otherwise indicated in the text, means the United States Government.
- d. "Strategic Petroleum Reserve" (SPR) means that DOE program established by Title I, Part B, of the Energy Policy and Conservation Act, 42 U.S.C. Section 6201, et seq.
- e. "Contracting Officer" means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings on behalf of the Government.
- f. "DOE" means the U.S. Department of Energy.
- g. "Contractor" means the party contracting to perform all work to be done in pursuance of this contract.
- h. "Offeror" herein means individuals, corporations, partnerships, or governmental entities making written offers under this RFO.
- i. "SPRPMO" means the Strategic Petroleum Reserve Project Management Office.
- j. "API" means the American Petroleum Institute.
- k. "Barrel" means 42 U.S. gallons or 231 cubic inches per gallon corrected to 60 degrees Fahrenheit.

- l. “Crude Oil” means a mixture of hydrocarbons that existed in the liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities and is marketed or used as such.
- m. “Force Majeure” means a failure to perform under the contract due to factors beyond the control of either party, as further defined in Section E.
- n. “Irrevocable Standby Letter of Credit” means a written commitment (by a depository institution located in and authorized to do business in any state of the United States or the District of Columbia, and authorized to issue letters of credit by the banking laws of the United States or any state of the United States or the District of Columbia) to pay all or part of a stated amount of money until the expiration date of the letter or upon presentation by the Contracting Officer (the beneficiary) of a written demand. The depository institution must be an account holder with the Federal Reserve Banking system and a participant (on line) in the Fed’s Fedwire Deposit System Network funds transfer system. Neither the financial institution nor the Offeror/Contractor can revoke or condition the Letter of Credit.
- o. “Market Center” means the location at which the royalty oil is transferred from the DOE to the Contractor.
- p. “Affiliate” means associated business concerns or individuals if, directly or indirectly, (1) either one controls or can control the other, or (2) a third party controls or can control both.
- q. “DMCOL” means DynMcDermott Crude Oil Logistics group. DynMcDermott Petroleum Operations Company (DM) is the Management and Operating (M&O) contractor for the SPR.
- r. “DOE M&O” means Department of Energy’s Management and Operating Contractor, DynMcDermott Petroleum Operations Company.

A.4 Receipt of Royalty Oil at the Market Center

All costs associated with the receipt of Royalty Oil at the Market Center will be absorbed by the Contractor, to include but not be limited to, tariffs, intermediate storage, “pump out” and throughput charges. Oil accountability documentation costs associated with standard industry practice will also be absorbed by the contractor.

A.5 Receipt of Exchange Oil at the DOE Site

- a. Maximum receipt capability of exchange oil at the DOE site is as follows

Note: Receipt capability may decline as SPR caverns are filled.

Bryan Mound	200,000 barrels per day
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- b. All costs associated with the transportation of the exchange oil transferred to the DOE will be absorbed by the Contractor, to include but not be limited to, tariffs, marine shipment, pipeline shipment, U.S. Customs duties, harbor, Oil Spill Liability Trust Fund taxes and environmental fees (including Texas Coastal protection fees), terminalling and tankage charges.
- c. Within 15 business days after contract award, the Contractor shall submit a ratable schedule, for the DOE Contracting Officer’s approval, providing the volume of exchange oil to be delivered each month to DOE. Ratable schedules must also reflect at least half of the exchanged crude owed by the contractor to be delivered by the midpoint of the delivery period. This scheduled volume provided by the contractor shall be based on the most current Platt’s trading month price averages, as described in B.1.d., and must be at least 95 percent of the total volume so computed. The ratable delivery schedule may allow for economic delivery-size marine cargos and/or commercial pipeline batch shipments (not less than 50,000 barrels per batch), to be spaced within the constraints of the DOE site receipt capabilities. The DOE must approve subsequent changes to the original schedule.
- d. If the Contractor fails to deliver at least 90 percent of the approved scheduled volume in any month (see A.5.c.), the under-delivered amount below the 90 percent threshold will incur interest payable in oil to the DOE. Interest shall be computed on a daily basis. The interest rate shall be in accordance with the Current Value of Funds rate as established by the Department of the Treasury in accordance with the Debt Collection Act of 1982 and published periodically in the Bulletins to the Treasury Fiscal Requirements Manual and in the Federal Register. The amount of interest will be determined by the value of the oil from the end of the month the oil was under-delivered until the cumulative amount of delivered oil achieves at least 90 percent of the cumulative scheduled amount through the current month or the end of the exchange oil delivery period, whichever occurs first. The interest owed to the DOE shall be paid in the form of crude oil meeting the specifications in Exhibit F calculated based on the value of last cargo of exchange oil delivered to the SPR. However, if this is not operationally feasible due to insufficient quantities to

comprise a normal oil delivery, the DOE may invoice the Contractor in accordance with the cost value derived in accordance with provision A.6.b.

- e. The availability of storage capacity and delivery periods for exchange oil at the DOE Site is as follows:

	<u>Volume (Million Barrels)</u>		<u>Delivery Period</u>
	<u>Sweet</u>	<u>Sour</u>	
Bryan Mound	0	3.0	05/01/09-09/30/09
Bryan Mound	2.7	0	10/01/09-01/31/10

- f. While the SPR can receive the site delivery volumes as stated in paragraph A.5.a, offerors are cautioned that, due to commercial volumes at the terminals/pipelines, delivery timeframes may be restricted. Offerors are responsible for ensuring that deliveries to the SPR can be accommodated through the applicable commercial terminals/pipelines and the SPR site.

A.6 Inventory Close-out Reconciliation (if applicable)

- a. Prior to the last month's scheduled deliveries, the DOE and Contractor shall use the most current available information in reconciling and determining the estimated final balance due the Government. The Contractor shall then utilize best efforts in delivering the estimated agreed upon quantity to the Government without exceeding the Contractor's total volume liability.
- b. Within 30 days after the later of the completion of the final scheduled delivery of exchange oil or the Contractor's final MMS verified receipt of royalty oil under the contract, any imbalances that may exist in the crude oil volumes agreed upon in the contract will be reconciled in the following manner:

If the DOE receives an amount of exchange oil that exceeds the contracted exchange oil delivery volume, the Government will attempt to reconcile the imbalance through cash payments or other alternate means, if available. All such payments are subject to the availability of funds. If reconciliation is by cash payment, the Contractor shall invoice the DOE based on the current market value of the exchange oil on the date of the last delivery as annotated on the DD250 or DD250-1, or the corresponding trading month average value of the Royalty Oil at the end of the contracted Royalty Oil delivery period, whichever is lowest.

Note: The current market value is derived from the data published in the Platt's Oilgram Price Report. If no published prices are available, a mutually agreed upon price will be negotiated. Should the parties fail to reach a negotiated price, the Government shall determine a fair and reasonable price subject to Provision G.3 entitled "Disputes".

If the Contractor delivers a total volume of exchange oil which is less than the contracted quantity, the DOE will invoice the Contractor for the undelivered amount based on the current market value of the exchange oil on the date of the last delivery as annotated on the DD250 or DD250-1, or the corresponding trading month average value of the Royalty Oil at the end of the contracted Royalty Oil delivery period, whichever is highest. If no payment is received by the due date specified on the invoice, the applicable amount owed will be drawn against the Contractor's Payment and Performance Letter of Credit as described in paragraph B. 9. (See Note above.)

A.7 Adjustment for Quality Differential for Exchange Oil

- a. A quality differential shall be computed for each cargo of exchange oil delivered to the DOE as compared to the contracted quality specifications (American Petroleum Institute (API) Gravity and Sulfur mass percent listed in Exhibit E) of the exchange oil to be delivered.
- b. Laboratory tests for API Gravity and Sulfur mass percent, in accordance with tests methods listed in Exhibit F, shall be taken when custody of the exchange oil is transferred to the DOE.

Note: The quality differential adjustments for the exchange oil delivered by the Contractor to the DOE will only apply in those instances wherein the quality of the crude oil being returned to the Government is below that of the exchange oil to be delivered to the Government as listed in the Contractor's award or approved substitution. Specifically, the Government shall not be liable for any quality increase of the Contractor's exchange oil that is above the crude oil quality specifications listed in the contract for the Contractor's return of exchange oil.

- c. The allowable variations from the contracted quality are as follows:

<u>Quality Characteristics</u>	<u>Sour</u>	<u>Sweet</u>
API° Gravity	- 0.5	- 0.5
Sulfur - Mass, %	+ 0.20	+ 0.10

- d. Where practicable, to avoid monetary adjustments, the quality adjustments shall be paid in crude oil based on the following rates:
 - (1) API Gravity (Sweet): Adjustment for Sweet crude oil is 2¢ per barrel for each degree (1.0°) decrease in (API) Gravity, or part thereof, by which the allowable variation set forth above is exceeded. Specifically, computed API Gravity excess variances for each cargo, reported in API Gravity 0.1 increments, shall be rounded up to the next whole 1.0 API Gravity for quality adjustment purposes. E.g., a computed sweet crude excess variance of API Gravity 2.2 degree decrease would be rounded to 3.0, and the adjustment due DOE would be 6¢ per barrel [2¢ bbl x 3.0]

API Gravity (Sour): Adjustment for sour crude oil is 1.5¢ per barrel for each 1/10th degree (0.1) decrease in API Gravity by which the allowable variation set forth above is exceeded for each cargo

- (2) Total Sulfur (Sweet/Sour): 1.0¢ per barrel for each 1/100th percent (0.01%) increase in total sulfur by which the allowable variations set forth above are exceeded.

The quality adjustment owed to the DOE shall be paid in the form of crude oil meeting the specifications in Exhibit F calculated based on the value of last cargo of exchange oil delivered to the SPR. However, if this is not operationally feasible due to insufficient quantities to comprise a normal oil delivery, the DOE may invoice the Contractor in accordance with the cost value derived in accordance with provision A.6.b.

- e. If the exchange oil delivered to the DOE falls below the minimum SPR specification for API Gravity, or above the maximum SPR specification for sulfur, as defined in Exhibit F, a quality differential adjustment will be applied, in accordance with Paragraph A.7.d., without a variance allowance on that portion exceeding the specification limit.
- f. There is a limit of 0.1% freewater on delivery to the SPR as measured either by contractor's shore tank or on the vessel prior to discharge into tanks designated for DOE receipts. The inspector's gauges, witnessed by the DOE representative, either on the vessel at the dock facility or terminal shore tank, will be the method used to determine the final freewater barrel amount. This clause is effective in conjunction with the Water and Sediment [Vol.%] maximum limit of 1.0% as stated in Exhibit F; e.g., a 500,000 barrel oil delivery to the SPR is limited to 1.0% S&W (5,000 barrels), of which a maximum of 0.1% (500 barrels) can be freewater. Contractor is responsible for all costs associated with removal of excess freewater. Exceeding the freewater limitations specified herein will result in the cargo being rejected.

A.8 Request(s) for Substitution of Crude Oil Types for Delivery to SPR

After award, if the contractor requests to offer a crude oil substitution for delivery which is not in its contract, the Government will evaluate the offer to determine whether the current value of the offered (substitution) crude exceeds the current value of contracted crude oil (or if a basket of crudes is in the contract, whether the offered crude oil value exceeds the current value of the originally lowest-valued crude in the basket). If the crude oil value offered equals or exceeds the contracted oil value (or the contractor agrees to pay the value differential to match the current lowest crude value in the contract plus administrative costs to process the request of \$2,000*) and the crude meets the specifications listed in Exhibit F, it will be accepted. This evaluation will be done on a case-by-case basis for each substituted crude cargo tendered for delivery and the crude oil will not be added automatically to the basket of contracted crude oils (or single crude) in the contract for future deliveries. Furthermore, the contractor may submit only one request per crude type, i.e., sweet or sour, for consideration for a specific delivery month. The substitution request must be in the form of a firm request and no 'hypothetical'

request for crude substitution will be considered. The contractor may request that DOE consider a specific crude type in the contracted basket for DOE to use in place of the originally lowest-valued crude in a substitution evaluation.

In addition, any approved substituted volume for a specific period shall be subject to an agreed to premium of a minimum of 90% of that volume for that period.

*The Administrative charge of \$2,000 will be applied to each crude type substitution request. All Administrative charges for substitution requests, whether requests were accepted or not, will be included in the contract final reconciliation calculations.

A.9 National and Operational Emergencies

Exchange oil deliveries to the DOE may be rescheduled or redirected upon the determination of a national or DOE operational emergency. A negotiated adjustment to the contract will be made as a result of this direction. However, should the parties fail to reach a settlement, the Government shall establish an equitable adjustment subject to the Section G.3 entitled "Disputes."

SECTION B - OFFERS**B.1 Preparation and Submission of Offers**

- a. Offerors must submit questions regarding this solicitation to email address Joyce.Francois@spr.doe.gov no later than close of business on January 8, 2009.
- b. For the single line item in Exhibit A for which the Offeror submits an offer, the offer may be for all or part of the Royalty Oil advertised but must be for the entire period of this contract. All offers shall be submitted on the form provided at Exhibit B. For each line item in Exhibit A for which the Offeror submits an offer, the following information shall be provided on Exhibit B: (1) Royalty Oil Market Center/Oil Type, (2) average Royalty Oil barrels per day, (3) Royalty Oil total contract volume, (4) exchange oil crude oil type, (5) the "Y" constant as described in B.1.d below, (6) exchange oil API Gravity, (7) exchange oil sulfur % weight, (8) exchange oil delivery mode/location and (9) DOE site.
- c. The offer evaluation shall be based on a computed best value ratio to the Government. A barrel exchange ratio, as described below, is computed and then incorporated into a value ratio utilizing the most current available oil market prices (delivered to SPR sites).
- d. For purposes of offer evaluation, the barrel exchange oil ratio shall be based on the following formula, (A/B), where:

"A" is the value (\$/bbl) of the Royalty Oil at the Market Center where:

Such value is determined as the average of the daily high and low spot quotes (to the \$0.001) as published in Platt's Oilgram Price Report for crude oil for the most current trading month available; and

"B" is the value of the exchange oil (\$/bbl) at the SPR delivery point as expressed by the formula (WTI + Y), where:

"WTI" is the average of the daily high and low daily spot quotes (to the \$0.001) for West Texas Intermediate as published in Platt's Oilgram Price Report for the most current trading month available; and

"Y" is a constant specified by the Offeror on Exhibit B (to the \$0.001) to represent factors, including but not limited to location, quality, and market factors. If a basket is offered one "Y" value shall be provided per basket.

The ratio A/B will be computed to three decimal places.

- e. For each month beginning with April 2009, a new ratio will be determined based on the values of WTI and the Market Center crude effective for the period beginning

on the 26th day of the second month prior to and ending on the 25th day of the month preceding the month of delivery. This ratio multiplied by the volume of Royalty Oil received will provide the amount of exchange oil due for that month.

EXAMPLE:

Note: numbers utilized in this example are for illustration purposes only.

Assume monthly LLS Royalty Oil at Market Center is 4800 barrels

LLS = \$44.466

WTI = \$42.172

Y = \$2.572

$A/B = (LLS)/(WTI + Y)$

$A/B = (\$44.466)/(\$42.172 + \$2.572)$

$A/B = \$44.466/\44.744

$A/B = 0.994$

$0.994 \times 4800 \text{ bbls} = 4771 \text{ bbls of Oil for delivery to the SPR}$

To more accurately reflect only those dates on which trading activity occurred, no weekends or holidays will be used in the computation.

For the purposes of the example above, the following price effective dates for November 26 through December 24, 2008 were used:

November 26, (27, 28, Holidays)

December 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 22, 23, 24, (25, Holiday)

The calculated prices for this example period were:

LLS = \$44.466

WTI = \$42.172

- f. Submission of offers that include multi-priced or tiered bids will be permitted, however, conditional bids will not be considered.
- g. Each Offeror shall complete and furnish Section H - Certifications along with its offer. Additionally, each Offeror shall sign and return a blank Exhibit E - Contract Form. The DOE will complete Exhibit E with the awarded line item(s).
- h. Offers and modifications to offers must be submitted by facsimile to (504) 818-5760. Facsimile offers shall arrive at the place, and by the time, specified in the solicitation. This means the submission of a faxed offer must be completely received by the time set for closing to be considered timely (see Paragraph B.4).

- i. By the submission of an offer, the Offeror agrees to be bound by the terms and conditions of this solicitation.
- j. All offers in response to this solicitation and all modifications of offers shall be in the English language. All correspondence between Offerors and DOE shall be in the English language.
- k. An offer must remain firm for 72 hours from official time for receipt of offers unless otherwise indicated on the offer form at Exhibit B.

B.2 Offer Guarantee

- a. Each offeror must submit an acceptable offer guarantee for each offer submitted unless multiple offers are submitted with the stipulation that only one offer is to be considered for award. Each offer guarantee must be received at the place and time specified for receipt of offers no later than the time and date set for receipt of offers.
- b. An offeror's failure to submit a timely acceptable guarantee will result in rejection of its offer. A properly executed copy of the offer guarantee(s) may be faxed to the telephone number listed in Section B.1.h.
- c. The amount of each offer guarantee is \$3 million.
- d. Each offeror must submit an irrevocable standby letter of credit from a U.S. depository institution containing the substantive provisions set out in Exhibit G, Offer Standby Letter of Credit, all letter of credit costs to be borne by the offeror. If the letter of credit contains any provisions at variance with Exhibit G or fails to include any provisions contained in Exhibit G, nonconforming provisions must be deleted and missing substantive provisions must be added or the letter of credit will not be accepted. The depository institution must be located in and authorized to do business in any state of the United States or the District of Columbia, and authorized to issue letters of credit by the banking laws of the United States or any state of the United States or the District of Columbia. The depository institution must be an account holder with the Federal Reserve Banking system and a participant (on line) in the Fed's Fedwire Deposit System Network funds transfer system. The original letter of credit must be sent to the Contracting Officer. The issuing bank must provide documentation indicating that the person signing the letter of credit is authorized to do so, in the form of corporate minutes, the Authorized Signature List, or the General Resolution of Signature Authority.
- e. If the offeror or bank forwards the letter of credit separately from the offer, the facsimile shall clearly indicate "Offer Standby Letter of Credit (Name of Company)".
- f. The offeror shall be liable for any amount lost by DOE due to the difference between the offer and the value of the exchange oil awarded on a subsequent

solicitation, and for any additional costs incurred by the DOE in the event that the offeror:

- (1) Withdraws its offer prior to time specified in its offer: or
- (2) Withdraws its offer after having agreed to extend its acceptance period; or
- (3) Having received a notification of award, fails to furnish an acceptable payment and performance standby letter of credit (see Provision B.9) within the time limit specified by the Contracting Officer.

The offer guarantee shall be used toward offsetting such value difference or additional re-exchange costs. Use of the offer guarantee for such recovery shall not preclude recovery by DOE of damages in excess of the amount of the offer guarantee caused by such failure of the offeror.

- g. Letters of Credit furnished as offer guarantees must be valid for at least 30 calendar days after the date set for the receipt of offers.
- h. If offer(s) are not accepted, the Letters of Credit will be returned upon request after award of contract(s) to successful offeror(s).
- i. If an offeror defaults on its offer, DOE will hold the offer guarantee so that damages can be assessed against it.

B.3 Late Submissions, Modifications, and Withdrawals of Offers Submitted by Mail

- a. Any offer received at the office designated in the solicitation after the exact time specified for receipt shall not be considered unless it is received before award is made and it is the only offer received.
- b. Any modification of an offer, except a modification resulting from the Contracting Officer's request for "best and final" offer, is subject to the same conditions as in Subparagraphs B.3.a. of this provision.
- c. A modification resulting from the Contracting Officer's request for best and final offer received after the time and date specified in the request shall not be considered unless received before award.
- d. The only acceptable evidence to establish the time of receipt at the Government installation is the time/date stamp of the facsimile received at (504) 818-5760.
- e. Notwithstanding Paragraph B.3.a of this provision, a late modification of an otherwise successful offer that makes its terms more favorable to the Government shall be considered at any time it is received and may be accepted.

B.4 Facsimile Offers and Modifications

- a. Definition: "Facsimile offer/modification," as used in this solicitation, means an offer, a modification of an offer, or withdrawal of an offer that is transmitted to and received by the Government via number (504) 818-5760 which is the Contracting Officer's computer facsimile number.
- b. Offerors shall submit facsimile offers under this solicitation. Facsimile offers shall arrive at the place, and by the time, specified in the solicitation. This means the submission of a faxed offer must be completely received by the time set for closing to be considered timely. Offerors must use facsimile number: (504) 818-5760.
- c. Facsimile offers/modifications that reject any of the terms, conditions, and provisions of this solicitation, are otherwise incomplete, or contain garbled information may be excluded from consideration.
- d. Facsimile offers/modifications shall contain the required signatures.
- e. If requested to do so by the Contracting Officer, the Offeror agrees to promptly submit the complete original signed offer/modification.
- f. The Government shall not be responsible for any failure attributable to the transmission or receipt of the facsimile offer/modification, including, but not limited to, the following:
 - (1) Receipt of garbled or incomplete offer/modification.
 - (2) Availability or condition of the sending facsimile equipment.
 - (3) Incompatibility between the sending and receiving equipment.
 - (4) Delay in transmission or receipt of the offer/modification due to circumstances beyond the control of the SPR.
 - (5) Failure of the Offeror to properly identify the offer/modification.
 - (6) Illegibility of offer/modification.
 - (7) Security of the data contained in the offer/modification.

B.5 Consideration of Offers

- a. The DOE shall award contract(s) resulting from this solicitation to those responsible Offeror(s) whose offer(s) conforming to the solicitation shall in the DOE's judgment be most advantageous to the Government.
- b. The DOE reserves the right to reject any or all offers, to waive any informalities and minor irregularities in an offer, and unless otherwise specified by the Offeror, to

accept any one item or group of items in an offer, as may be in the best interest of the DOE.

- c. The DOE may award a contract on the basis of initial offer(s) received, without discussions. Accordingly, each initial offer should be submitted on the most favorable terms. However, the DOE reserves the right to conduct discussions with any Offeror if it is later determined by the Contracting Officer to be necessary. In the event the DOE requests best and final offers, a date and time for receipt of such offers shall be set forth in the request. Any best and final offers received after the time and date specified for the receipt of best and final offers shall not be considered.
- d. The DOE reserves the right to award a contract for a quantity of Royalty Oil that is less than the quantity requested unless the Offeror specifies otherwise in the offer, e.g. "all or none" (Ref. B.5.b.).

B.6 Determination of Responsibility

Offeror(s) shall furnish sufficient information for the Contracting Officer to make a determination of responsibility. At a minimum, offerors shall furnish enough data for the Contracting Officer to determine adequate financial capability. (See Provision H.5.)

B.7 Evaluation Procedure for Award

- a. Offers shall be evaluated based on the best value offered to the DOE. Evaluation of the offers shall consider the exchange oil quality, the ratio of exchange oil provided to the DOE in relation to the Royalty Oil provided to the Contractor, and the market value of the crude oils. If offers containing one or more baskets of multiple crude oils are received, the lowest valued crude oil within a specified basket will be used for evaluation purposes. Note: If a basket is offered, one "Y" value shall be provided per basket.
- b. Each offer will be considered on its own merits for comparison with other offers for that specific line item in Exhibit A.
- c. The requirements of the Cargo Preference Act of 1954, as amended (Title 46 USC 1241 (b)) (See Exhibit J), apply to marine vessel deliveries under this program. In order to facilitate and encourage the participation of U.S.-flag commercial vessels in the marine transportation of exchange oil to the DOE, preference shall be given to reasonable offers that designate delivery on qualified U.S.-flag vessels. The Government recognizes the increased transportation costs incurred in using U.S.-flag vessels and shall consider such costs in its evaluation of offers. However, this preference does not preclude the award of contracts using foreign-flag vessels.

B.8 Contract Award

A written award or acceptance of offer mailed or otherwise furnished to the successful Offeror within the time for acceptance specified in the offer shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the DOE may accept an offer (or make an offer) whether or not there are negotiations after its receipt. Negotiations conducted after receipt of an offer are not a rejection or counteroffer by the DOE.

B.9 Payment and Performance Letter of Credit

- a. Within five business days after receipt of award, the Purchaser must provide to the Contracting Officer an "Irrevocable Standby Letter of Credit" established in favor of the United States Department of Energy equal to 35 percent of the value of the contracted quantity of the royalty oil at the time of contract award and containing the substantive provisions set out in Exhibit H. The original Letter of Credit must be delivered to Joyce Francois, U.S. Department of Energy, 900 Commerce Road East, New Orleans, LA, 70123. The letter of credit must be issued by a depository institution located in and authorized to do business in any state of the United States or the District of Columbia, and authorized to issue letters of credit by the banking laws of the United States or any state of the United States or the District of Columbia. The depository institution must be an account holder with the Federal Reserve Banking system and a participant (on line) in the Fed's Fedwire Deposit System Network funds transfer system. Failure to provide the letter of credit shall constitute grounds for termination of contract(s) for default.
- b. The letter of credit must be an "Irrevocable Standby Letter of Credit" and **MUST NOT VARY IN SUBSTANCE** from the sample in Exhibit H. If the letter of credit contains any provisions at variance with Exhibit H or fails to include any provisions contained in Exhibit H, nonconforming provisions must be deleted and missing substantive provisions must be added or the letter of credit will not be accepted. The letter of credit must be effective on or before April 1, 2009, and remain in effect through February 28, 2010, must permit multiple partial drawings, and must contain the contract number. The issuing bank must provide documentation indicating that the person signing the letter of credit is authorized to do so, in the form of corporate minutes, the Authorized Signature List, or the General Resolution of Signature Authority.
- c. All wire deposit and letter of credit costs will be borne by the purchaser.
- d. The required value of the Payment and Performance Guarantee Letter of Credit shall be reduced by the Contracting Officer during the exchange oil delivery period to twenty percent (20%) of the original contract value upon delivery by the Contractor and acceptance by the DOE of eighty percent (80%) of the contracted quantity of exchange oil. The remaining value of the Letter of Credit shall be cancelled upon inventory close-out reconciliation in accordance with Section F and Paragraph A.6 of the contract. However, the DOE reserves the right to require an increase to the

value of the Letter of Credit if at any time it becomes insufficient in relation to the remaining quantity and value of Exchange oil to be delivered.

SECTION C - QUALITY AND QUANTITY DETERMINATION/INSPECTION AND ACCEPTANCE

C.1 Custody Transfer of Royalty Oil Received by the Contractor

All Royalty Oil contracted for and delivered at the Market Center must be accepted by the Contractor for the entire Royalty Oil delivery period. If additional Royalty Oil (over the contracted amount) is made available, the Contractor is obligated to take delivery of that oil and the exchange delivery amount will be adjusted accordingly. The Contractor shall take custody of the Royalty Oil at the Market Center.

C.2 Custody Transfer Measurements for Delivery of Exchange Oil to the DOE

Custody transfer measurements will be in accordance with established API standards and will be witnessed by a U.S. Government representative. The Contractor may witness the measurement and testing of exchange oil for its account and/or may provide, at Contractor's expense, a Contractor's inspector to witness the measurement and testing process. The custody transfer measurements of the exchange oil to be delivered by the Contractor to the DOE facility will be based on the following delivery locations:

- a. Seaway Freeport Terminal #2, Freeport, Texas for delivery to the DOE Bryan Mound site

Custody transfer measurements shall be taken at the Seaway (DOE) Freeport terminal #2 dock custody meters, and in-line samplers. DD250 Quantity volumes shall be based on the physical thru-put barrels measured at the Dock Meter, only while oil is being delivered to the Bryan Mound site.

Vessel deliveries through Seaway (DOE) Freeport terminal #2 must displace an initial linefill of approximately 3,000 barrels prior to delivery to the BM site. These initial linefill barrels will be excluded from the DD250. After completion of the tanker discharge, the remaining 3,000 barrels in the terminal line will be displaced to the Bryan Mound site by the following vessel at the terminal, with these barrels being included on the DD250. Only those barrels metered by the Seaway Freeport terminal #2 dock meters and delivered to the Bryan Mound site shall be used for the custody volume on the DD250 delivery document.

The Contractor is responsible for terminal throughput charges for oil deliveries performed under these conditions. A sample collected from the Seaway dock certified automatic in-line sampler shall be used for quality determination. API, Sulfur, Water, and Sediment will be determined by the DOE contracted 3rd party inspection company laboratory. In the event the Freeport meters fails, the backup measurement will be the BM site meters. In the event the Freeport inline sampler fails, the BM inline sampler will be used for quality. For this sample, the analysis

consisting of API, Sulfur, Water, and Sediment shall be performed by the DOE Bryan Mound facility and witnessed by the DOE 3rd party inspector.

Note: preliminary samples from the vessel's tanks will need to be tested for contaminants prior to any receipts in Site caverns. The DOE 3rd party inspector will retrieve vessel samples upon arrival so as to expedite testing. Travel and testing can take between 6-8 hours to complete. Vessel may begin discharging into the BM Site shore tanks and will be held in tanks until all testing is approved. In the event of any delays in delivery and/or testing, Vessel may have to slow its rate and/or stop if necessary.

- b. Seaway Freeport Terminal #2, Freeport, Texas through Jones Creek tank farm and ExxonMobil pipeline for delivery to the DOE Bryan Mound site.

Custody transfer measurements shall be taken at the DOE Bryan Mound site custody meters, and in-line samplers for delivery into the Bryan Mound site. The Contractor is responsible for terminal and pipeline throughput charges for oil deliveries performed under these conditions. A sample collected from the DOE Bryan Mound Site certified automatic in-line sampler shall be used for quality determination. API gravity, S&W, and Sulfur will be determined by the DOE Bryan Mound site laboratory and witnessed by DOE's contracted third party inspection company.

Alternate/backup custody transfer measurements for Customer deliveries of crude oil from the Jones Creek facility site shall be obtained from the Jones Creek meters. For alternate/backup quality determination, a certified automatic in-line sampler shall be used. For this sample, the analysis consisting of API, Sulfur, Water, and Sediment shall be performed by DOE's contracted third party inspection company.

Note: preliminary samples from Jones Creek facility (JC) shore tank will need to be tested for contaminants before delivery into the Bryan Mound site caverns. This will be sampled and tested by the DOE 3rd party inspector. Travel and testing can take between 6-8 hours to complete. JC shore tank may begin discharging into the BM Site shore tanks and will be held in tanks until all testing is approved. In the event of any delays in delivery and/or testing, (JC) shore tank may have to slow its rate and/or stop if necessary.

C.3 Exchange Oil Quality Determination

- a. Upon vessel arrival at a discharge terminal but prior to discharge, the ship's composite tank sample shall be tested and verified by a DOE contracted facility for API Gravity, and Sediment and Water tests to allow commencement of discharge.
- b. The quality of the crude oil that is delivered by the Contractor to the DOE will be determined from samples taken, in order of preference, (1) from a representative sample collected by an automatic sampler whose performance has been proven in accordance with the API Manual of Petroleum Measurement Standards, Chapter 8 Section 2, Automatic Sampling of Petroleum and Petroleum Products (ASTM D4177), latest edition; or (2) from the Contractor's tankage in accordance with API Manual of Petroleum Measurement Standards, Chapter 8 Section 1, Manual Sampling of Petroleum and Petroleum Products (ASTM International (ASTM) D4057), latest edition; or (3) from a representative vessel composite sample obtained in accordance with the API Manual of Petroleum Measurement Standards Chapter 17 – Marine Measurement, Section 2 – Measurement of Cargoes On Board Tank Vessels. Preference will be given to samples collected by means of an automatic sampler when such a system is available and operational.

All methods above shall be in accordance with the latest API/ASTM standards and methods. If the measurements are determined by the DOE 3rd party inspector to be inaccurate or not to represent the quality delivered by the Contractor, the subsequent order of preference method, as stated above, shall be applied.

- c. If the crude oil tendered for delivery to the DOE does not meet the crude oil specifications as provided in Section I, Exhibit F (Paragraph A.7.f may be applicable), the Government reserves the right to refuse the acceptance of the delivery.
- d. The custody quality oil analysis performed by the designated laboratory as specified in the contract shall be documented as the official measurements of record. The Contractor may request a representative portion of the custody transfer sample for their internal purposes, but any varying analysis results obtained by the Contractor shall not be binding on the Government nor override the Government's official measurements of record. The Contractor or his representative may, at its option, arrange to witness and verify testing simultaneously with the DOE 3rd party inspector. Such services, however, will be for the account of the Contractor. Any disputes will be settled in accordance with Paragraph G.3. Should the Contractor opt not to witness the testing, then the Government findings will be binding on the Contractor.
- e. For pipeline deliveries of crude oil to the SPR storage Site, the Contractor shall ensure that the commercial pipeline carriers provide DOE 3rd party inspector access to the pipeline facilities for the obtaining of crude oil samples.

NOTE: Any additional costs (including overtime) charged by the pipeline carrier which are directly associated with the government sampling requirement shall be the responsibility of the Contractor.

C.4 Exchange Oil Quantity Determination

- a. The quantity of the crude oil that is delivered by the Contractor to the DOE will be determined, in order of preference, (1) by delivery meter in accordance with the API Manual of Petroleum Measurement Standards, Chapters 5 – Metering Section 3 – Measurement of Liquid Hydrocarbons by Turbine Meters; or (2) by opening and closing tank gauges (with adjustment for opening and closing free water and Sediment and Water tests as determined from shore tank samples; or (3) by vessel ullage measurements with qualified VEF in accordance with API Manual of Petroleum Measurement Standards Chapter 17 – Marine Measurement. All volumetric measurements will be corrected to net standard volume in barrels at 60°F, using the API Manual of Petroleum Measurement Standards, Chapter 11.1, Volume 1, Volume Correction Factors (ASTM D1250) (IP 200); Table 5A-Generalized Crude Oils, Correction of Observed API Gravity to API Gravity at 60°F; Table 6A-Generalized Crude Oils, Correction of Volume to 60°F Against API Gravity at 60°F, latest edition, and by deducting the tank's free water, and the entrained Sediment and Water as determined by the testing of composite all levels samples taken from the delivery tanks.
- b. The quantity measurements shall be performed and certified by the Government's responsible party for delivery operations, and witnessed by the DOE 3rd party inspector at the delivery point. The Contractor may, at its option, have representatives present at the gauging/metering, sampling, and testing. Should the Contractor arrange for additional inspection or testing services, such services will be for the account of the Contractor, and any results obtained by the Contractor shall not be binding on the Government. Any disputes will be settled in accordance with Paragraph G.3. Should the Contractor not arrange for additional services, then the Government's quantity determination shall be binding on the Contractor.

C.5 Title to Crude Oil

- a. Title and custody for the Royalty Oil will be transferred to the contractor at the Market Center custody transfer point.
- b. Title to the exchange oil delivered to the SPR will be transferred to the DOE at the custody transfer measurement locations listed in Provision C.2.
- c. The DOE shall have the right to reject any exchange oil which, when tendered for delivery, may be involved in litigation, or the title of which may be in dispute. Also, the DOE may require of the Contractor satisfactory evidence of the Contractor's perfect and unencumbered title or satisfactory indemnity bond. The Contractor warrants and guarantees that it has good title thereto to the exchange oil being provided to the DOE.

SECTION D - PAYMENT**D.1 Method of Payments**

Payment for Royalty Oil shall be exchange oil delivered to the SPR in accordance with the terms of the contract.

D.2 Monetary Settlements

Amounts due based on imbalances/adjustments as noted in Provisions A.5, A.6 and A.7, shall be in U.S. Dollars, transmitted by means of electronic transfer of funds (ACH or Fedwire). Contractors shall provide bank and account information to the DOE for all amounts due to the Contractor. Amounts due to the DOE shall be invoiced and will become due and payable upon receipt of invoice. Nonpayment of the invoice constitutes the condition under which the invoice will be drawn against the Payment and Performance Letter of Credit.

SECTION E – FORCE MAJEURE

Force Majeure means, except for payment due hereunder, either party hereto shall be relieved from liability for failure to perform hereunder for the duration and to the extent such failure is occasioned by war, riots, insurrections, fire, explosions, sabotage, strikes, and other labor or industrial disturbances, acts of God or the elements, disruption or breakdown of production or transportation facilities, or delays of pipeline carrier in receiving and delivering crude oil tendered. Any such failures to perform shall be remedied with all reasonable dispatch.

As employed herein, the term “party”, as it relates to the Contractor, shall not include affiliated business concerns or individuals if, directly or indirectly, (1) either one controls or can control the other, or (2) a third party controls or can control both.

SECTION F - SHIPPING**F.1 Scheduling of Royalty Oil Movements**

- a. The Contractor, at its own expense, shall make all necessary arrangements to receive delivery of Royalty Oil at the Market Center, to include all accounting, documentation, and pump-out charges at the custody transfer point.
- b. The Contractor agrees to take 100 percent of the contracted amount of Royalty Oil delivered to it at the Market Center for the entire delivery period of this contract and to take additional Royalty Oil if made available by the Government. To facilitate timely and accurate delivery of Royalty Oil, the Contractor or its agent will communicate directly with the Pipeline Operator and make arrangements for the delivery and transfer of Royalty Oil from the Market Center

- c. Each month of the Royalty Oil delivery period, the Contractor will notify the DOE within 15 days following each monthly delivery period regarding the quantities of Royalty Oil received.

F.2 Scheduling of Exchange Oil Movements

- a. For marine deliveries, the Contractor shall nominate a delivery program to the DOE not later than the twentieth day of the second month prior to the month in which deliveries will be made (e.g. by March 20 for May deliveries). Subsequent to telephonic notification of nominations, the contractor shall confirm nominations via email in accordance with Section J Exhibit C. The nomination will include a five-day delivery date range for each cargo, the type of oil, and the approximate delivery volume. For these nominations received by DOE within the required time period, preference for delivery ranges will be given to those Contractors who were awarded the highest volume of exchange oil, in descending order, at each SPR receiving terminal/site. Certain restrictions may apply to months in which the total volume to be delivered to the SPR precludes the availability of five-day delivery ranges for all of the cargoes. During these instances, the Contractors five-day delivery ranges will be proportionately reduced. The delivery time allotted to each Contractor during that month shall be limited to each Contractor's percentage volume of the total volume scheduled by the SPR for that month. The DOE will respond to each Contractor not later than the twenty-fifth (25th) day of the second month prior to the month in which deliveries will be made either confirming the schedule as originally submitted or proposing alterations. Delivery program nominations received by DOE subsequent to the required time period will be handled by DOE on a first-come first-served basis. DOE will provide responses to these late nominations within five (5) business days of receipt by DOE either confirming or proposing alterations. The Contractor shall be deemed to have agreed to such alterations unless the Contractor requests the DOE to reconsider its request within two days. The DOE will use its best efforts to accommodate such requests, but its decision following any reconsideration shall be final and binding.
 - (1) No later than seven business days prior to the delivery month, the Contractor shall narrow the five-day delivery range to a three-day delivery window and nominate the name of the vessel, the vessel quality data, the expected date of arrival, and the volume to be delivered. The DOE will accept or reject the nomination, without prejudice, and advise the Contractor within one business day of the disposition of vessel nominated. Due to SPR receipt capabilities as defined in Section A.5. and possible scheduling conflicts, certain limitations may be applied to the accepted three-day delivery windows. A Contractor may be required to modify the three-day delivery window nomination to an alternate period within the established five-day delivery range.
 - (2) The Contractor, or its designated agent, will provide pre-arrival notices 72 hours, 48 hours and 24 hours prior to discharge to both the DOE and the discharge terminal.

- b. For pipeline deliveries, the Contractor will make necessary arrangements with the commercial pipelines connected to the DOE or its interconnecting pipelines. Nomination information regarding these deliveries will be provided to the DOE not later than five days prior to the month in which deliveries will be made.
- c. The Contractor shall be responsible for meeting all delivery requirements imposed by the commercial facilities, including complying with the rules, regulations and procedures contained in applicable port/terminal manuals, pipeline tariffs, or other applicable documents.
- d. If there is a conflict between vessel schedules submitted in accordance with paragraph a. and pipeline schedules submitted in accordance with paragraph c. the Government will resolve in favor of the pipeline schedule.
- e. Whenever an inspector is appointed by the Contractor to witness the delivery operation (gauging, sampling, testing, etc.), written notification shall be provided to the DOE, no later than 72 hours prior to the scheduled date of each applicable cargo delivery to the DOE.
- f. Absence of the name(s) of a Contractor's inspector on the delivery documentation constitutes acceptance by the Contractor of the delivery quantity and quality as determined by the DOE and/or its representative(s).
- g. The Contractor is solely responsible for making the necessary arrangements with terminals and pipeline carriers, including tankage, to achieve any minimum rate/quantity required by connecting commercial facilities to ensure exchange oil deliveries are made to DOE delivery location(s).
- h. To assist the DOE's reporting under the Cargo Preference Act, the Contractor, at the time of delivery, shall provide information regarding the marine transportation of the exchange oil into the DOE. Information required is the origin port, flag of registry, vessel name, destination port and transportation costs. If the Contractor acquires non-domestic exchange oil that has already been delivered to a U.S. port, information is required as to the date acquired by the Contractor and the oil's location, e.g., name of U.S. terminal or storage facility, at that time.
- i. If the award is made basis U. S. flag tonnage (ocean going tankship), within seven (7) days of award, the Contractor shall provide a copy of a charter and/or agreement documenting the use of U. S. Flag Transportation for the contract volumes agreed upon in the award. If documentation is not received, the conditions listed in F.2.j. below will apply.
- j. If during the performance of a contract awarded on the basis of foreign flag vessel delivery, U. S. -flag vessel(s) become available for use by the Contractor, the Contracting Officer will consider a request for contract modification for use of such vessels.

If U.S. tonnage (ocean going tankship), is offered which requires multiple delivery vessels (e.g., lightering), the mother vessel, at a minimum, must be of U.S. registry.

Offerors are cautioned that if U.S. flag tonnage (ocean going tankship), is not secured after it was agreed upon in the contract it may result, at the Government's option, in termination by default or the obligation to provide additional crude oil to the SPR to compensate for the freight differential of substituting foreign flag tonnage. The calculation of the freight differential will be determined by the Contracting Officer.

- k. The Contractor's vessel agent, who will be nominated for approval by the DOE, will be responsible for providing the DOE with full delivery information for all exchange oil deliveries, to include but not limited to, the load quantity/quality, departure timeframes and all pertinent data. The Contractor or Contractor's vessel agent shall provide to DOE, upon DOE request, the following load port crude oil quality results prior to vessel arrival at discharge port: API Gravity, Sulfur and Sediment and Water. Additionally, pre-arrival information shall be provided regarding ETAs and any special delivery requirements that may affect the expedient discharge of the vessel.
- l. Due to varying conditions of vessel delivery and shipping or pipeline transmission, the quantity actually delivered may vary by +/-5 percent for each shipment. However, in accordance with Section A.6., the Contractor shall engage sufficient transportation capacity during their last month's scheduled deliveries in order to insure that the total reconciled contracted quantity balance due DOE will be delivered.

F.3 Environmental Compliance

Failure of the Contractor or the Contractor's subcontractor(s) to comply with all applicable rules and regulations in the transportation of crude oil will be considered a failure to comply with the terms of any contract containing these provisions, and may result in termination for default, unless, in accordance with Paragraph G.7, such failure was beyond the control and without the fault or negligence of the Contractor, its affiliates, its agents or subcontractors at any tier.

F.4 Delivery and Receipt Documentation of Royalty Oil

- a. The Contractor is responsible for obtaining a copy of the standard industry practice meter run tickets documenting the delivery/receipt of Royalty Oil at the Market Center from the Pipeline Operator of the Market Center.
- b. Within 15 days after the end of each month, the Contractor shall provide to the Contracting Officer in a format specified by the Contracting Officer, a summary and supporting documentation (e.g., pipeline statements, meter tickets, etc.) by Market Center of the quantity of Royalty Oil received. The Contractor shall provide the Contracting Officer the point of contact responsible for this information. (*See F.1.c*)

F.5 Delivery and Receipt Documentation of Exchange Oil

The quantity and quality determination of the exchange oil provided by the Contractor shall be documented on the Material Inspection and Receiving Report (DD Form 250 for pipeline receipts or DD Form 250-1 for vessel receipts)(see Exhibit D1 and D2 for samples of the forms). Copies of the completed DD Forms 250 or 250-1, with applicable supporting documentation (i.e., metering or tank gauging tickets and appropriate calculation worksheets), will be furnished to the Contractor and/or the Contractor's authorized representative after completion of delivery for signature agreeing to the quantity and quality of crude delivered. Also, marine Bills of Lading or Pipeline Statements identifying crude type shipped shall be provided by the contractor.

SECTION G - CONTRACT ADMINISTRATION DATA AND PROVISIONS**G.1 DOE SPR Correspondence Procedures**

To promote timely and effective administration, correspondence submitted under this contract shall be subject to the following procedures:

Correspondence from the contractor shall be submitted to the Contracting Officer, the contract specialist, the Technical Representative (TR), the Alternate TR and DMCOL in an electronic format to the email addresses provided below.

- (a) Contracting Officer's email address is:

Joyce.Francois@spr.doe.gov
(504) 734-4760

- (b) The Contract Specialist's email address is:

Chris.Silva@spr.doe.gov
(504) 734-4561

- (c) The TR's email address is:

Roy.Habbaz@spr.doe.gov
(504) 734-4872

- (d) The Alternate TR's email address is:

Robert.Kahl@spr.doe.gov
(504) 734-4335

- (e) DMCOL@spr.doe.gov

G.2 Default

- a. The Government may, by written notice of default to the Customer, terminate this contract in whole or in part if the Customer fails to -

- (1) Receive Royalty Oil within the time specified in this contract or any extension;
- (2) Make progress in scheduling of contracted deliveries, so as to endanger performance of this contract; or
- (3) Perform any of the other provisions of this contract.

- b. The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

G.3 Disputes

- a. This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. Section 601 et seq.). If a dispute arises relating to the contract, the Customer may submit a claim to the Contracting Officer, who shall issue a written decision on the dispute in the manner specified in 48 CFR 1-33.211.

- b. "Claim" means:

- (1) A written request submitted to the Contracting Officer;
- (2) For payment of money, adjustment of contract terms, or other relief;
- (3) Which is in dispute or remains unresolved after a reasonable time for its review and disposition by the Government; and
- (4) For which a Contracting Officer's decision is demanded.

- c. In the case of dispute requests or amendments to such requests for payment exceeding \$100,000, the Customer shall certify at the time of submission as a claim, as follows:

I certify that the claim is made in good faith, that the supporting data are current, accurate and complete to the best of my knowledge and belief and that the amount requested accurately reflects the contract adjustment for which the Customer believes the Government is liable.

Customer's Name _____

Signature _____

Title _____

- d. The Government shall pay to the Customer interest on the amount found due to the Customer on claims submitted under this provision at the rate established by the Department of the Treasury from the date the amount is due until the Government makes payment. The Contract Disputes Act of 1978, as amended, and the Prompt Payment Act adopt the interest rate established by the Secretary of the Treasury under the Renegotiation Act as the basis for computing interest on money owed by the Government. This rate is published semi-annually in the Federal Register.
- e. The Customer shall pay to the Government interest on the amount found due to the Government and unpaid on claims submitted under this provision at the rate specified in Paragraph d. above from the date the amount is due until the Customer makes payment.

- f. The decision of the Contracting Officer shall be final and conclusive and shall not be subject to review by any forum, tribunal, or Government agency unless an appeal or action is commenced within the times specified by the Contract Disputes Act of 1978, as amended.
- g. The Customer shall comply with any decision of the Contracting Officer and at the direction of the Contracting Officer shall proceed diligently with performance of this contract pending final resolution of any request for relief, claim, appeal, or action related to this contract.

G.4 Termination for the Convenience of the Government

The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Government shall be liable only for actual costs incurred by the Customer before the effective date of termination, but shall not be liable for consequential damages or the contractor's lost profits.

G.5 Excusable Delays

- a. In the event either party should be prevented from performing under this contract by reason of any unforeseeable cause beyond its control and without its fault or negligence, including, but not restricted to, acts of God or of the public enemy, sovereign acts of the United States, acts of a foreign Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather, performance under the contract shall be suspended in whole or in part until such cause ceases to exist and thereafter the time for fulfillment of the contract shall be extended by the length of time during which such cause prevented performance under the contract.
- b. In order for this provision to become operative, the party to the contract affected by the excusable delay condition shall furnish the other party with written notice of the nature and extent of the excusable delay condition promptly after the commencement thereof, but in any event prior to outloading of the crude oil from

the exchange location from which it is to be shipped. Written notice shall be furnished within ten (10) calendar days to the other party when the excusable delay condition ceases to exist.

G.6 Modification

No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All modifications to the contract shall be made in writing by the Contracting Officer.

G.7 Covenant Against Contingent Fees

- a. The Offeror warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to add to the contract price or consideration, or otherwise recover, the full amount of the contingent fee.
- b. "Bona fide agency," as used in this paragraph, means an established commercial or selling agency, maintained by a Customer for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.
- c. "Bona fide employee," as used in this paragraph, means a person, employed by a Offeror and subject to the Offeror's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.
- d. "Contingent fee," as used in this paragraph, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.
- e. "Improper influence," as used in this paragraph, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

G.8 Assignment

The Contractor shall not make or attempt to make any assignment of a contract that incorporates the clauses of this RFP or any interest therein contrary to the provisions of Federal law, including the Anti-Assignment Act (41 U.S.C. 15), without first notifying the Contracting Officer.

G.9 Officials Not to Benefit

No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit arising from it. However, this clause does not apply to this contract to the extent that this contract is made with a corporation for the corporation's general benefit.

G.10 Gratuities

- a. The Government, by written notice to the Customer, may terminate the right of the Customer to proceed under this contract if it is found, after notice and hearing, by the Secretary of Energy or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered by or given by the Customer, or any agent or representative of the Customer, to any officer or employee of the Government with a view toward securing a contract or securing favorable treatment with respect to the awarding, amending, or making of any determinations with respect to the performing of such contract; provided, that the existence of the facts upon which the Secretary of Energy or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.
- b. In the event that this contract is terminated as provided in Paragraph (a) hereof, the Government shall be entitled (1) to pursue the same remedies against the Customer as it could pursue in the event of a breach of the contract by Customer, and (2) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Secretary of Energy or his duly authorized representative) which shall not be less than three nor more than 10 times the cost incurred by the Customer in providing any such gratuities to any such officer or employee.
- c. The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

G.11 Changes

The Contracting Officer may, at any time, without notice to the Letter of Credit guarantee(s), by written order designated or indicated to be a change order, or verbal direction followed by written order, make changes within the terms and conditions of the contract, including but not limited to the following changes-

- a. In the volume to be delivered to the contractor or delivered to the SPR.
- b. To the delivery period of SPR crude oil at the market center(s) or for exchange oil to the SPR.
- c. In the type of exchange crude oil to be delivered to the SPR.

- d. In the delivery point(s) of exchange oil for the SPR.

Any other written or oral order (which, as used in this paragraph, includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this provision; Provided, that the Contractor gives the Contracting Officer written notice stating –

- a. The date, circumstances, and source of the order, and
- b. That the Contractor regards the order as a change order.

If any change under this provision causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the performance under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing.

The contractor must assert its right to an adjustment under this provision within 30 calendar days after notification of the change.

SECTION H - CERTIFICATIONS

Please complete and return this section with your offer.

H.1 Certificate of Independent Value Determination

- a. The Offeror certifies that -
- (1) The offer of exchange oil to the Government has been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other Offeror or competitor relating to (i) those values, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the values offered;
 - (2) The offer of exchange oil to the Government has not been and shall not be knowingly disclosed by the Offeror, directly or indirectly, to any other Offeror or competitor before contract award unless otherwise required by law; and
 - (3) No attempt has been made or shall be made by the Offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

- b. Each signature on the offer is considered to be a certification by the signatory that the signatory -
- (1) Is the person in the Offeror's organization responsible for determining the value being offered in this proposal, and that the signatory has not participated and shall not participate in any action contrary to Subparagraphs a. (1) through a. (3) above; or
 - (2)(i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and shall not participate in any action contrary to Subparagraphs a. (1) through a. (3) above
-
- (insert full name of person(s) in the Offeror's organization responsible for determining the quantities offered in this proposal, and the title of his/her position in the Offeror's organization);
- (ii) As an authorized agent, does certify that the principals named in subdivision b. (2)(i) above have not participated, and shall not participate, in any action contrary to Subparagraphs a. (1) through a. (3) above; and
 - (iii) As an agent, has not personally participated, and shall not participate, in any action contrary to Subparagraphs a. (1) through a. (3) above.
- c. If the Offeror deletes or modifies Subparagraph a. (2) above, the Offeror shall furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

H.2 Contingent Fee Representation and Agreement

- a. Representation. The Offeror represents that, except for full-time bona fide employees working solely for the Offeror, the Offeror: (Note: The Offeror shall check the appropriate boxes. For interpretation of the representation, including the term bona fide employee, see Provision G.7.)
- (1) _____ has, _____ has not employed or retained any person or company to solicit or obtain this contract; and
 - (2) _____ has, _____ has not paid or agreed to pay to any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

- b. Agreement. The Offeror agrees to provide information relating to the above Representation as requested by the Contracting Officer and, when Subparagraph (a)(1) or (a)(2) is answered affirmatively, to promptly submit to the Contracting Officer-
- (1) A completed Standard Form 119, Statement of Contingent or Other Fees, (SF 119); or
 - (2) A signed statement indicating that the SF 119 was previously submitted to the same Contracting Officer, including the date and applicable solicitation or contract number, and representing that the prior SF 119 applies to this offer or quotation.

H.3 Certification Regarding Debarment, Suspension, Proposed Debarment and Other Responsibility Matters

- a. (1) The Offeror certifies, to the best of its knowledge and belief, that -
- (i) The Offeror and/or any of its Principals –
 - (A) Are (_____) are not (_____) presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by a Federal agency.
 - (B) Have (_____) have not (_____), within a 3-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and
 - (C) Are (_____) are not (_____) presently indicted for, or otherwise criminally or civilly charged by a Governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision.
 - (ii) The Offeror has (_____) has not (_____) within a 3-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.
- (2) “Principals,” for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary division, or business segment, and similar positions).

This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under section 1001, title 18, United States Code.

- b. The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous by reason of changed circumstances.
- c. A certification that any of the items in Paragraph a. of this provision exists shall not necessarily result in withholding of an award under this solicitation. However, the certification shall be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsive.
- d. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required in Paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally processed by a prudent person in the ordinary course of business dealings.
- e. The certification in Paragraph a. of this provision is material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to the other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

H.4 Data Universal Numbering System (DUNS) Number

In accordance with FAR 52.204-6, Data Universal System (DUNS) Number, state your Dun's Number: _____.

H.5 Letter of Credit Information

Provide below the name, address, phone number, and point of contact for the financial institution that will provide the letter of credit required by Clause B.9 of this solicitation.

Name of Bank Issuing

Letter of Credit

Contact at Bank

(for verification):

H.6 Business Status Certification

I hereby certify that we are ☐ are not ☐ a regular seller, purchaser, or trader of crude oil.

H.7 Signature/Certification (SEP 1999)

By completing below, the offeror certifies, under penalty of law, that the representations and certifications are accurate, current, and complete. The offeror further certifies that it will notify the Contracting Officer of any changes to these representations and certifications. The representations and certification made by the offeror, as contained herein, concern matters within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent representation or certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

Signature of the Officer or Employee

Date of Execution by Responsible Party
for the Offer

Typed Name and Title of the Officer
or Employee Responsible for the Offer

Name and Address of Organization

H.8 Taxpayer Identification

a. Definitions

- (1) "Common parent," as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.
- (2) "Taxpayer Identification Number (TIN)," as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

- b. All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to

the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

- c. The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.
- d. Taxpayer Identification Number (TIN)
 - (1) TIN: _____.
 - (2) TIN has been applied for.
 - (3) TIN is not required because:
 - (4) Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;
 - (5) Offeror is an agency or instrumentality of a foreign government;
 - (6) Offeror is an agency or instrumentality of the Federal Government.
- e. Type of organization
 - (1) Sole proprietorship;
 - (2) Partnership;
 - (3) Corporate entity (not tax-exempt);
 - (4) Corporate entity (tax-exempt);
 - (5) Government entity (Federal, State, or local);
 - (6) Foreign government;
 - (7) International organization per 26 CFR 1.6049-4;
 - (8) Other _____.

f. Common parent

- (1) Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.
- (2) Name and TIN of common parent:
Name _____
TIN _____

SECTION I - EXHIBITS

- I.1 Exhibit A - Market Center Information
- I.2 Exhibit B - Offer Form
- I.3 Exhibit C – Exchange Oil Delivery Location Information
- I.4 Exhibit D-1 - Sample Material Inspection and Receiving Report
Exhibit D-2 - Sample Tanker Barge Material Inspection and Receiving Report
- I.5 Exhibit E - Contract Form
- I.6 Exhibit F - DOE Crude Oil Specifications
- I.7 Exhibit G - Sample – Offer Guarantee Irrevocable Standby Letter of Credit
- I.8 Exhibit H - Sample – Performance Irrevocable Standby Letter of Credit
- I.9 Exhibit I - Diagrams of DOE Facilities
- I.10 Exhibit J - Cargo Preference Act

Exhibit A

Crude	Market Center	RIK Crude Type	April/09 Qty Avail 30 days	May/09 Qty Avail 31 days	June/09 Qty Avail 30days	July/09 Qty Avail 31 days	Aug/09 Qty Avail 31 days	Sept/09 Qty Avail 30 days	Oct/09 Qty Avail 31 days	Nov/09 Qty Avail 30 days	Dec/09 Qty Avail 31 days	Average Royalty B/D for 275 days	Total Royalty Barrels
Mars	Clovelly	Mars	755,595	780,782	755,595	780,782	780,782	755,595	780,782	755,595	780,782	25,187	6,926,288

ROYALTY OIL QUANTITIES ARE ESTIMATES ONLY

Note: DOE reserves the right to adjust royalty oil quantities so as not to exceed SPR storage target volumes.

Exhibit B**OFFER FORM**

ROYALTY OIL			EXCHANGE OIL					
Market Center/ Oil Type	Avg. Barrels per Day	Total Contract Volume	Crude Oil Type	“Y”	API Gravity	Sulfur % Weight	Delivery Mode/Location*	DOE Site**

THIS OFFER SHALL REMAIN VALID UNTIL: _____.

***Delivery Modes:**

P/L = Pipeline

US = U.S. Flag Ocean going Tankship

FF = Foreign Flag Vessel***Location**

Freeport Terminal

Jones Creek Tank Farm

****DOE Site Code:**

BM = Bryan Mound

NOTES:

- 1) If multiple basket crudes are used in an offer, each crude and its API and Sulfur must be listed individually. A single “y” value shall be used for each basket.

EXHIBIT C**EXCHANGE OIL DELIVERY LOCATION INFORMATION**

Contact for delivery information

Oil Movements Scheduling

Chuck Costanza
DynMcDermott Petroleum
Operations Company
850 S. Clearview Parkway
New Orleans, LA 70123
Phone: 504-734-4733
FAX: 504-734-4442

Alternate: Ned Scheppege
Phone: 504-734-4604
E-Mail DMCOL@SPR.DOE.GOV

EXHIBIT C
(Continued)

EXCHANGE OIL DELIVERY LOCATION INFORMATION

(DOE latest information obtained from terminal. Any update must be obtained directly from terminal)

SEAWAY PIPELINE COMPANY – FREEPORT TERMINAL 2

Location: Brazoria County, Texas (three miles southwest of Freeport, Texas on the Old Brazos River, four miles from the sea buoy)

Delivery Points: Seaway Freeway Terminal marine dock facility number 2

Marine Dock Facilities And Vessel Restrictions:

Tankship Docks: 2 Docks: Nos. 2 and 3

Maximum Length

Length Overall (LOA): 820 feet during daylight and 615 feet during hours of darkness

Maximum Beam: 145 feet

Maximum Draft: 42 feet salt water; subject to change due to weather and silting conditions

Maximum Air Draft: None

Maximum Deadweight Tons (DWT): Maximum DWT is 120,000 DWT if other port restrictions are met. Maximum DWT is theoretical berth handling capability; however, Contractors are cautioned that varying harbor and channel physical constraints are the controlling factors as to vessel size, and they are responsible for confirming that proposed vessels can be accommodated.

Oil Waste Reception Facilities: Facilities are available for oily bilge water and sludge wastes. Contractors are responsible for making arrangements with the terminal and for bearing costs associated with such arrangements.

Customary Anchorage: Freeport Harbor sea buoy approximately 4.5 miles from the terminal.

JONES CREEK TANK FARM**Delivery Points:**

The Freeport terminal serves as the origin point for the Seaway system and provides marine terminaling and storage services for Texas Gulf Coast refineries. Three additional large diameter pipelines carry crude oil from Freeport to the adjacent 2.6 million barrel Jones Creek Tank Farm. Pipelines consist of (2) 30" and (1) 42" connections.

The Jones Creek tank farm supports the off-loading operation of the Seaway Freeport terminal, the origin point for the Seaway crude pipeline, which transports crude oil from Freeport, Texas to Cushing, Oklahoma.

Pipelines**Incoming from Freeport Terminal 2**

- (2) Two 30" Pipelines (Seaway)
- (1) One 42" Pipeline (Seaway)
- (1) One Bi-directional 30" Pipeline (DOE / Exxon)

Outgoing To Cushing, Oklahoma

- (1) One 30" Pipeline (Seaway)

Meters

Incoming / Max rate 10, 000 to 12,500 bph

Outgoing / Max rate 12,500 bph)

Pumping from Jones Creek to Bryan Mound

Meters / Max rate of 22,000 bph)

Tankage: (5) 400,000 barrels
 (1) 600,000 barrels

Capacity: 2.6 million

EXHIBIT D-1

DD FORM 250

MATERIAL INSPECTION AND RECEIVING REPORT						Form Approved OBM No. 0704-0248	
<p>The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports, (0704-0248), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.</p> <p>PLEASE DO NOT RETURN YOUR COMPLETED FORM TO EITHER OF THESE ADDRESSES.</p> <p>SEND THIS FORM IN ACCORDANCE WITH THE INSTRUCTIONS CONTAINED IN THE DFARS, APPENDIX F-401.</p>							
1. PROCUREMENT INSTRUMENT IDENTIFICATION (CONTRACT) NO.			6. INVOICE NO./DATE		7. PAGE OF		8. ACCEPTANCE POINT
2. SHIPMENT NO.	3. DATE SHIPPED	4. B/L TCN		5. DISCOUNT TERMS			
9. PRIME CONTRACTOR			10. ADMINISTERED BY				
11. SHIPPED FROM (If other than 9)			12. PAYMENT WILL BE MADE BY				
13. SHIPPED TO			14. MARKED FOR				
15. ITEM NO.	16. STOCK/PART NO. (Indicate number of shipping container -type of container - container number)		17. QUANTITY SHIP/REC'D*	18. UNIT	19. UNIT PRICE	20. AMOUNT	
21. CONTRACT QUALITY ASSURANCE				22. RECEIVER'S USE			
a. ORIGIN		b. DESTINATION		Quantities shown in column 17 were received in			
<input type="checkbox"/> CQA <input type="checkbox"/> ACCEPTANCE of listed items		<input type="checkbox"/> CQA <input type="checkbox"/> ACCEPTANCE of listed items		apparent good condition except as noted.			
has been made by me or under my supervision and they conform to contract, except as noticed herein or on supporting documents.		has been made by me or under my supervision and they conform to contract, except as noticed herein or on supporting documents.		DATE RECEIVED		SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE	
DATE SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE		DATE SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE		TYPED NAME:			
TYPED NAME:		TYPED NAME:		TITLE:			
TITLE:		TITLE:		MAILING ADDRESS:			
MAILING ADDRESS:		MAILING ADDRESS:		COMMERCIAL TELEPHONE NUMBER:			
COMMERCIAL TELEPHONE NUMBER:		COMMERCIAL TELEPHONE NUMBER:		* If quantity received by the Government is the same as quantity shipped, indicate by (X) mark, if different, enter actual quantity received below quantity shipped and encircle.			
23. CONTRACTOR USE ONLY							

Form DD 250-1

Designed using Perform Pro, WHS/DIOR, Mar 97

CONTRACT FORM

ROYALTY OIL EXCHANGE NEGOTIATED CONTRACT			CONTRACT NUMBER		Page 1 of 1			
<p>This contract is entered into by and between the United States of America, hereinafter called the "Government," represented by the Contracting Officer executing this contract and the Contractor below identified. The Government agrees to make available the Royalty Oil to the Contractor in the location and amount specified below and the Contractor agrees to provide the exchange oil described in Exhibit B in accordance with the terms and conditions of this contract.</p>								
OIL TYPE/ LOCATION	AVG. BARRELS PER DAY	TOTAL CONTRACTED VOLUME	CRUDE OIL Type	"Y"	API GRAVITY	SULFUR % MASS	DELIVERY MODE/ LOCATION	DOE SITE
EXECUTION BY CONTRACTOR			EXECUTION BY GOVERNMENT					
DATE (Day, Month, Year)			UNITED STATES OF AMERICA BY:			DATE:		
NAME OF CONTRACTOR								
ADDRESS (Street, City, State & Zip Code) (Type or Print)								
INTERNET ADDRESS			NAME AND TITLE OF CONTRACTING OFFICER					
SIGNATURE AND TITLE OF PERSON AUTHORIZED TO SIGN THIS CONTRACT (Type or print name and title under Signature)								
			<div>Contracting Officer</div> <div>U. S. Department of Energy Acquisition and Sales Division</div>					

EXHIBIT F**STRATEGIC PETROLEUM RESERVE****CRUDE OIL SPECIFICATIONS^a (SPRO 2008 MAR)^{ε1}**

<u>CHARACTERISTIC</u>	<u>SOUR^b</u>	<u>SWEET^c</u>	<u>PRIMARY ASTM TEST METHOD^d</u>
API Gravity [°API]	30 – 45	30 - 45	D 1298 or D 5002
Total Sulfur [Mass %], max.	1.99	0.50	D 4294
Pour Point [°C], max.	10	10	D 97
Salt Content [Mass %], max.	0.050	0.050	D 6470
Viscosity [cSt @ 15.6°C], max.	32	32	D 445
[cSt @ 37.8°C], max.	13	13	
Reid Vapor Pressure [kPa @ 37.8°C], max.	76	76	D 323 or D 5191
Total Acid Number [mg KOH/g], max.	1.00	1.00	D 664
Water and Sediment [Vol. %], max.	1.0	1.0	D 4006 or D4928, & D 473
Yields [Vol. %]			D 2892 & D 5236
Naphtha [28-191°C]	24 - 30	21 - 42	
Distillate [191-327°C]	17 - 31	19 - 45	
Gas Oil [327-566°C]	26 - 38	20 - 42	
Residuum [>566°C]	10 - 19	14 max.	

^{ε1} This revision adds “pour point depressants” to the list of chemicals in footnote ^a, and adds NOTES below.

^a Marketable virgin crude petroleum suitable for normal refinery processing and free of foreign contaminants or chemicals including, but not limited to, pour point depressants, chlorinated and/or oxygenated hydrocarbons, and lead.

^b Crude oils that meet these sour specifications include Arabian Extra Light, Arabian Light, Bonito Sour, Eugene Island, Flotta, Forties, Isthmus, Lagomedio, Olmeca, Oman, Qatar Marine, Russian Export Blend (Urals), Tia Juana Light, and West Texas Sour.

- ^c Crude oils that meet these sweet specifications include Azeri, Bonny Light, Brass River, Brent, Cusiana, East Texas, Ekofisk, Escravos, Es Sider, Heavy Louisiana Sweet, Kole, Light Louisiana Sweet, Nemba, Oseberg, Qua Iboe, Saharan Blend, Santa Barbara, Statfjord, West Texas Intermediate, Zafiro, and Zarzaitine.
- ^d Alternate methods may be used if approved by the contracting officer.

NOTE 1: The Strategic Petroleum Reserve reserves the right to refuse to accept any crude oil which meets these specifications but is deemed to be incompatible with existing stocks, or which has the potential for adversely affecting handling.

NOTE 2: Crude oils other than those listed above may be acceptable. The acceptability of any crude oil depends upon an assay typical of current production quality of the stream.

NOTE 3: All crude oil shipments received by the SPR are tested to ensure they meet specifications. Should successive shipments fail to meet specifications, the stream may be deleted from the list of acceptable crude oils.

EXHIBIT G
SAMPLE – OFFER GUARANTEE STANDBY LETTER OF CREDIT

BANK LETTERHEAD
IRREVOCABLE STANDBY LETTER OF CREDIT

Date: _____

To: Acquisition and Sales Division
Mail Stop FE-4451
Strategic Petroleum Reserve
Project Management Office
U.S. Department of Energy
900 Commerce Road East
New Orleans, LA 70123

AMOUNT OF LETTER OF CREDIT: U.S.\$ _____ (_____)

CONTRACTOR: _____

SOLICITATION NO: DE-RP93011 _____

LETTER OF CREDIT NO: _____

EXPIRATION DATE: _____

AMERICAN BANKERS ASSOCIATION (ABA) NO: _____

Gentlemen:

We hereby establish in the U.S. Department of Energy's favor our irrevocable standby Letter of Credit effective immediately for the account of our customer in response to the above U.S. Department of Energy's solicitation, including any amendments thereto, for the exchange of Strategic Petroleum Reserve petroleum. This Letter of Credit expires 30 calendar days after the date set for receipt of offer(s).

This letter of credit is available by your draft/s at sight, drawn on us and accompanied by a manually signed statement that the signer is an authorized representative of the Department of Energy, and one or both of the following statements:

- "This drawing of U.S. \$ _____ (_____) against your Letter of Credit Numbered _____ dated _____, is due the U.S. Government because of the failure of (Contractor) to honor its offer to enter into a contract for the exchange of petroleum with the Strategic Petroleum Reserve, in accordance with the U.S. Government's Royalty In Kind Solicitation No. DE-RP93011, including any amendments thereto."
- "This drawing of U.S. \$ _____ (_____) against your Letter of Credit Numbered _____ dated _____, is due the U.S. Government because of the failure of (Contractor) to provide an acceptable Irrevocable Performance Standby Letter of Credit within the specified time frame in solicitation number DE-RP93011 for the awarded contract. "

Drafts must be presented for payment on or before the expiration date of this Letter of Credit at our bank. The Government may make multiple drafts against this Letter of Credit.

Upon receipt of the U.S. Department of Energy's demand by hand, mail express delivery, or other means, at our office located at _____, we will honor the demand and make payment, by 3 p.m. Eastern Time of the next business day following receipt of the demand, by either wire transfer of funds as a deposit to the account of the U.S. treasury over the Fedwire Deposit System Network, or by electronic funds transfer through the Automated Clearing House Network, using the Federal Remittance Express Program. The information to be included in the transfer will be provided at the time of demand by the Department of Energy.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision, International Chamber of Commerce Publication no. 600) and except as may be inconsistent therewith, to the Uniform Commercial Code in effect on the date of issuance of this Letter of Credit in the state in which the issuer's head office within the United States is located.

We hereby agree with the drawers, endorsers and bona fide holders that all drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored upon presentation and delivery of the above documents for payment at our bank on or before the expiration date.

In the event of a bankruptcy filing by the applicant prior to the expiration date of this letter of credit, the expiration date of this letter of credit will automatically be extended by one hundred twenty (120) calendar days from the expiration date of this letter of credit.

Address all communications regarding this Letter of Credit to _____.

Very truly yours,

(Authorized Signature)

(Typed Name and Title)

EXHIBIT H**SAMPLE – IRREVOCABLE PAYMENT AND PERFORMANCE STANDBY LETTER
OF CREDIT****BANK LETTERHEAD
IRREVOCABLE STANDBY LETTER OF CREDIT**

Date: _____

To: Acquisition and Sales Division
Mail Stop FE-4451
Strategic Petroleum Reserve
Project Management Office
U.S. Department of Energy
900 Commerce Road East
New Orleans, LA 70123

AMOUNT OF LETTER OF CREDIT: U.S.\$ _____ (_____)

CONTRACTOR: _____

CONTRACT NO: _____

LETTER OF CREDIT NO: _____

EXPIRATION DATE: _____

AMERICAN BANKERS ASSOCIATION (ABA) NO: _____

Gentlemen:

We hereby establish in the U.S. Department of Energy's favor our irrevocable standby Letter of Credit effective immediately for the account of our customer's above contract number with the U.S. Department of Energy for the exchange of Strategic Petroleum Reserve petroleum.

This letter of credit is available by your draft/s at sight, drawn on us and accompanied by a manually signed statement that the signer is an authorized representative of the Department of Energy, and one or more of the following statements:

- "I hereby certify that (Contractor's Name) has failed to receive the Royalty oil in accordance with the terms of Contract Number _____, and as a result owes the U.S. Government U.S. \$ _____. "
- "I hereby certify that (Contractor's Name) has failed to deliver exchange oil in accordance with the terms of Contract Number _____, and as a result owes the U.S. Government U.S. \$ _____. "
- "I hereby certify that (Contractor's Name) has failed to make final reconciliation payment in accordance with the terms of Contract Number _____, and as a result owes the U.S. Government U.S. \$ _____. "

Drafts must be presented for payment on or before the expiration date of this Letter of Credit at our bank. The Government may make multiple drafts against this Letter of Credit.

Upon receipt of the U.S. Department of Energy's demand by hand, mail express delivery, or other means, at our office located at _____, we will honor the demand and make payment, by 3 p.m. Eastern Time of the next business day following receipt of the demand, by either wire transfer of funds as a deposit to the account of the U.S. treasury over the Fedwire Deposit System Network, or by electronic funds transfer through the Automated Clearing House Network, using the Federal Remittance Express Program. The information to be included in each transfer will be provided at the time of demand by the Department of Energy.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision, International Chamber of Commerce Publication no. 600) and except as may be inconsistent therewith, to the Uniform Commercial Code in effect on the date of issuance of this Letter of Credit in the state in which the issuer's head office within the United States is located.

We hereby agree with the drawers, endorsers and bona fide holders that all drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored upon presentation and delivery of the above documents for payment at our bank on or before the expiration date.

In the event of a bankruptcy filing by the applicant prior to the expiration date of this letter of credit, the expiration date of this letter of credit will automatically be extended by one hundred twenty (120) calendar days from the expiration date of this letter of credit.

Address all communications regarding this Letter of Credit to _____.

Very truly yours,

(Authorized Signature)

(Typed Name and Title)

EXHIBIT I

DIAGRAMS OF DOE FACILITY

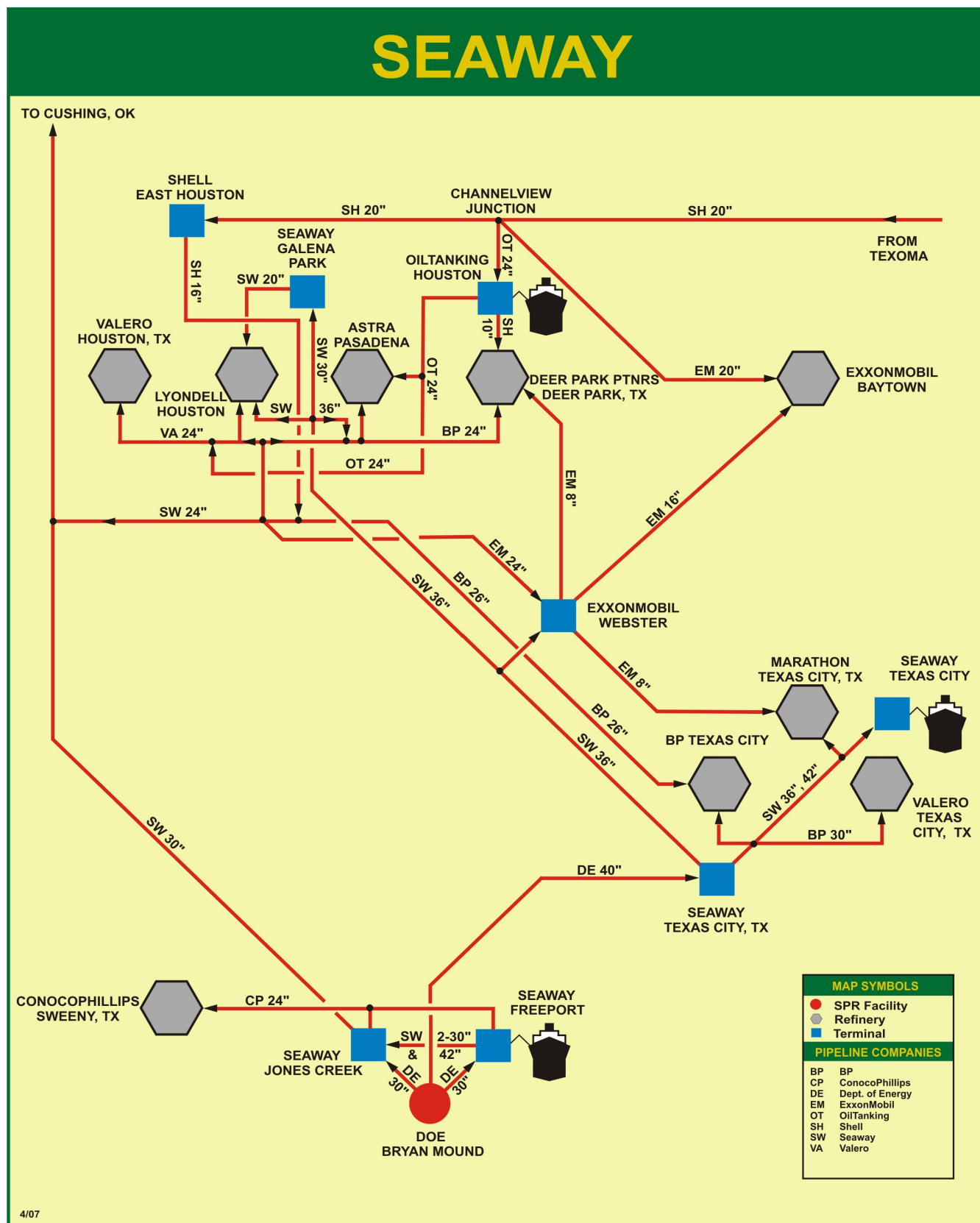


EXHIBIT J

CARGO PREFERENCE ACT

Ocean shipments of crude oil for the SPR are generally subject to the requirements of the Cargo Preference Act, as amended, Pub. L. No. 83-664, 68 Stat. 832, 46 U.S.C. § 1241(b). The Act provides in pertinent part that:

Whenever the United States shall procure, contract for, or otherwise obtain for its own account, or shall furnish to or for the account of any foreign nation without provision for reimbursement, any equipment, materials, or commodities, within or without the United States, or shall advance funds or credits or guarantee the convertibility of foreign currencies in connection with the furnishing of such equipment, materials, or commodities, the appropriate agency or agencies shall take such steps as may be necessary and practicable to assure that at least 50 percentum of the gross tonnage of such equipment, materials, or commodities which may be transported on ocean vessels shall be transported on privately owned United States-flag commercial vessels, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels, in such manner as will insure a fair and reasonable participation of United States-flag commercial vessels in such cargoes by geographic areas.

Thus, the Cargo Preference Act requires DOE to take “such steps as may be necessary and practicable to assure that at least 50 %” of oil for the SPR that is transported on ocean vessels be transported on United States flag-commercial (*sic*) vessels, if such vessels are available at fair and reasonable rates for United States-flag commercial vessels.

Source: U.S. Department of Justice, Office of Legal Counsel, Office of the Assistant Attorney General, “MEMORANDUM FOR ELIZABETH H. DOLE Secretary of Transportation and DONALD P. HODEL Secretary of Energy, Re: Applicability of the Cargo Preference Act to the Transportation of Alaskan Oil to the Strategic Petroleum Reserve,” September 15, 1983.